

ASSEMBLY, No. 2380

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

SYNOPSIS

Pertains to certain review and approval responsibilities of land surveyors.

CURRENT VERSION OF TEXT

As introduced.



A2380 PINKIN

2

1 AN ACT concerning land surveying, amending various parts of the
2 statutory law, and supplementing Title 46 of the Revised
3 Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 3.2 of P.L.1975, c.291 (C.40:55D-5) is amended to
9 read as follows:

10 3.2. "Maintenance guarantee" means any security which may be
11 accepted by a municipality for the maintenance of any
12 improvements required by this act, including but not limited to
13 surety bonds, letters of credit under the circumstances specified in
14 section 16 of P.L.1991, c.256 (C.40:55D-53.5), and cash.

15 "Major subdivision" means any subdivision not classified as a
16 minor subdivision.

17 "Master plan" means a composite of one or more written or
18 graphic proposals for the development of the municipality as set
19 forth in and adopted pursuant to section 19 of P.L.1975,
20 c.291 (C.40:55D-28).

21 "Mayor" means the chief executive of the municipality, whatever
22 his official designation may be, except that in the case of
23 municipalities governed by municipal council and municipal
24 manager the term "mayor" shall not mean the "municipal manager"
25 but shall mean the mayor of such municipality.

26 "Military facility" means any facility located within the State
27 which is owned or operated by the federal government, and which is
28 used for the purposes of providing logistical, technical, material,
29 training, and any other support to any branch of the United States
30 military.

31 "Military facility commander" means the chief official, base
32 commander or person in charge at a military facility.

33 "Minor site plan" means a development plan of one or more lots
34 which (1) proposes new development within the scope of
35 development specifically permitted by ordinance as a minor site
36 plan; (2) does not involve planned development, any new street or
37 extension of any off-tract improvement which is to be prorated
38 pursuant to section 30 of P.L.1975, c.291 (C.40:55D-42); and (3)
39 contains the information reasonably required in order to make an
40 informed determination as to whether the requirements established
41 by ordinance for approval of a minor site plan have been met.

42 "Minor subdivision" means a subdivision of land for the creation
43 of a number of lots specifically permitted by ordinance as a minor
44 subdivision; provided that such subdivision does not involve (1) a
45 planned development, (2) any new street or (3) the extension of any

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 off-tract improvement, the cost of which is to be prorated pursuant
2 to section 30 of P.L.1975, c.291 (C.40:55D-42).

3 "Municipality" means any city, borough, town, township or
4 village.

5 "Municipal agency" means a municipal planning board or board
6 of adjustment, or a governing body of a municipality when acting
7 pursuant to this act and any agency which is created by or
8 responsible to one or more municipalities when such agency is
9 acting pursuant to this act.

10 "Municipal engineer" means the official licensed professional
11 engineer appointed by the proper authority of the municipality
12 wherein the territory shown on a map is situated.

13 "Municipal land surveyor" means the official licensed
14 professional land surveyor appointed by the proper authority of the
15 municipality wherein the territory shown on a map is situated.

16 "Municipal resident" means a person who is domiciled in the
17 municipality.

18 "Nonconforming lot" means a lot, the area, dimension or location
19 of which was lawful prior to the adoption, revision or amendment of
20 a zoning ordinance, but fails to conform to the requirements of the
21 zoning district in which it is located by reason of such adoption,
22 revision or amendment.

23 "Nonconforming structure" means a structure the size, dimension
24 or location of which was lawful prior to the adoption, revision or
25 amendment of a zoning ordinance, but which fails to conform to the
26 requirements of the zoning district in which it is located by reasons
27 of such adoption, revision or amendment.

28 "Nonconforming use" means a use or activity which was lawful
29 prior to the adoption, revision or amendment of a zoning ordinance,
30 but which fails to conform to the requirements of the zoning district
31 in which it is located by reasons of such adoption, revision or
32 amendment.

33 "Noncontiguous cluster" means noncontiguous areas to be
34 developed as a single entity according to a plan containing an area,
35 or a section or sections thereof, to be developed for residential
36 purposes, nonresidential purposes, or a combination thereof, at a
37 greater concentration of density or intensity of land use than
38 authorized within the area, section, or sections, under conventional
39 development, in exchange for the permanent preservation of another
40 area, or a section or sections thereof, as common or public open
41 space, or for historic or agricultural purposes, or a combination
42 thereof.

43 "Office of Planning Advocacy" or "Office of Smart Growth"
44 means the Office of State Planning established pursuant to section 6
45 of P.L.1985, c.398 (C.52:18A-201) and transferred to the
46 Department of State pursuant to Governor Christie's Reorganization
47 Plan No. 002-2011, effective August 28, 2011.

1 "Official county map" means the map, with changes and
2 additions thereto, adopted and established, from time to time, by
3 resolution of the board of chosen freeholders of the county pursuant
4 to R.S.40:27-5.

5 "Official map" means a map adopted by ordinance pursuant to
6 article 5 of P.L.1975, c.291.

7 "Offsite" means located outside the lot lines of the lot in question
8 but within the property, of which the lot is a part, which is the
9 subject of a development application or the closest half of the street
10 or right-of-way abutting the property of which the lot is a part.

11 "Off-tract" means not located on the property which is the
12 subject of a development application nor on the closest half of the
13 abutting street or right-of-way.

14 "Onsite" means located on the lot in question and excluding any
15 abutting street or right-of-way.

16 "On-tract" means located on the property which is the subject of
17 a development application or on the closest half of an abutting
18 street or right-of-way.

19 "Open-space" means any parcel or area of land or water
20 essentially unimproved and set aside, dedicated, designated or
21 reserved for public or private use or enjoyment or for the use and
22 enjoyment of owners and occupants of land adjoining or
23 neighboring such open space; provided that such areas may be
24 improved with only those buildings, structures, streets and offstreet
25 parking and other improvements that are designed to be incidental
26 to the natural openness of the land or support its use for recreation
27 and conservation purposes.

28 (cf: P.L.2016, c.21, s.2)

29

30 2. Section 3.3 of P.L.1975, c.291 (C.40:55D-6) is amended to
31 read as follows:

32 3.3. "Party immediately concerned" means for purposes of
33 notice any applicant for development, the owners of the subject
34 property and all owners of property and government agencies
35 entitled to notice under section 7.1 of P.L.1975, c.291 (C.40:55D-
36 12).

37 "Performance guarantee" means any security, which may be
38 accepted by a municipality, including but not limited to surety
39 bonds, letters of credit under the circumstances specified in section
40 16 of P.L.1991, c.256 (C.40:55D-53.5), and cash.

41 "Planned commercial development" means an area of a minimum
42 contiguous or noncontiguous size as specified by ordinance to be
43 developed according to a plan as a single entity containing one or
44 more structures with appurtenant common areas to accommodate
45 commercial or office uses or both and any residential and other uses
46 incidental to the predominant use as may be permitted by ordinance.

47 "Planned development" means planned unit development,
48 planned unit residential development, contiguous cluster or

1 noncontiguous cluster, planned commercial development or planned
2 industrial development.

3 "Planned industrial development" means an area of a minimum
4 contiguous or noncontiguous size as specified by ordinance to be
5 developed according to a plan as a single entity containing one or
6 more structures with appurtenant common areas to accommodate
7 industrial uses and any other uses incidental to the predominant use
8 as may be permitted by ordinance.

9 "Planned unit development" means an area with a specified
10 minimum contiguous or noncontiguous acreage of 10 acres or more
11 to be developed as a single entity according to a plan, containing
12 one or more contiguous clusters or noncontiguous clusters or
13 planned unit residential developments and one or more public,
14 quasi-public, commercial or industrial areas in such ranges of ratios
15 of nonresidential uses to residential uses as shall be specified in the
16 zoning ordinance.

17 "Planned unit residential development" means an area with a
18 specified minimum contiguous or noncontiguous acreage of five
19 acres or more to be developed as a single entity according to a plan
20 containing one or more contiguous clusters or noncontiguous
21 clusters, which may include appropriate commercial, or public or
22 quasi-public uses all primarily for the benefit of the residential
23 development.

24 "Planning board" means the municipal planning board
25 established pursuant to section 14 of P.L.1975, c.291 (C.40:55D-
26 23).

27 "Plat" means a map or maps of a subdivision or site plan,
28 condominium plan, and government maps or other maps to be filed
29 or submitted to any agency of competent jurisdiction.

30 "Preliminary approval" means the conferral of certain rights
31 pursuant to sections 34, 36 and 37 of P.L.1975, c.291 (C.40:55D-
32 46; C.40:55D-48; and C.40:55D-49) prior to final approval after
33 specific elements of a development plan have been agreed upon by
34 the planning board and the applicant.

35 "Preliminary floor plans and elevations" means architectural
36 drawings prepared during early and introductory stages of the
37 design of a project illustrating in a schematic form, its scope, scale
38 and relationship to its site and immediate environs.

39 "Proper authority" means the chief legislative body of a
40 municipality or any other agency to which the authority for
41 approval of maps has been designated by ordinance or statute.

42 "Public areas" means (1) public parks, playgrounds, trails, paths
43 and other recreational areas; (2) other public open spaces; (3) scenic
44 and historic sites; and (4) sites for schools and other public
45 buildings and structures.

46 "Public development proposal" means a master plan, capital
47 improvement program or other proposal for land development
48 adopted by the appropriate public body, or any amendment thereto.

1 "Public drainage way" means the land reserved or dedicated for
2 the installation of storm water sewers or drainage ditches, or
3 required along a natural stream or watercourse for preserving the
4 biological as well as drainage function of the channel and providing
5 for the flow of water to safeguard the public against flood damage,
6 sedimentation and erosion and to assure the adequacy of existing
7 and proposed culverts and bridges, to induce water recharge into the
8 ground where practical, and to lessen nonpoint pollution.

9 "Public open space" means an open space area conveyed or
10 otherwise dedicated to a municipality, municipal agency, board of
11 education, State or county agency, or other public body for
12 recreation and conservation purposes.

13 "Public utility" means any public utility regulated by the Board
14 of Regulatory Commissioners and defined pursuant to R.S.48:2-13.

15 "Quorum" means the majority of the full authorized membership
16 of a municipal agency.

17 "Receiving zone" means an area or areas designated in a master
18 plan and zoning ordinance, adopted pursuant to P.L.1975,
19 c.291 (C.40:55D-1 et seq.), within which development may be
20 increased, and which is otherwise consistent with the provisions of
21 section 9 of P.L.2004, c.2 (C.40:55D-145).

22 "Recreation and conservation purposes" means "recreation and
23 conservation purposes" as defined in section 3 of P.L.1999,
24 c.152 (C.13:8C-3).

25 "Residential density" means the number of dwelling units per
26 gross acre of residential land area including streets, easements and
27 open space portions of a development.

28 "Resubdivision" means (1) the further division or relocation of
29 lot lines of any lot or lots within a subdivision previously made and
30 approved or recorded according to law or (2) the alteration of any
31 streets or the establishment of any new streets within any
32 subdivision previously made and approved or recorded according to
33 law, but does not include conveyances so as to combine existing
34 lots by deed or other instrument.

35 (cf: P.L.2013, c.106, s.5)

36

37 3. Section 35 of P.L.1975, c.291 (C.40:55D-47) is amended to
38 read as follows:

39 35. a. Minor subdivision. An ordinance requiring approval of
40 subdivisions by the planning board may authorize the planning
41 board to waive notice and public hearing for an application for
42 development if the planning board or subdivision committee of the
43 board appointed by the chairman find that the application for
44 development conforms to the definition of "minor subdivision" in
45 section 3.2 of P.L.1975, c.291 (C.40:55D-5). Minor subdivision
46 approval shall be deemed to be final approval of the subdivision by
47 the board; provided that the board or said subcommittee may
48 condition such approval on terms ensuring the provision of

1 improvements pursuant to sections 29, 29.1, 29.2 and 41 of
2 P.L.1975, c.291 (C.40:55D-38, C.40:55D-39, C.40:55D-40, and
3 C.40:55D-53).

4 b. Minor subdivision approval shall be granted or denied within
5 45 days of the date of submission of a complete application to the
6 administrative officer, or within such further time as may be
7 consented to by the applicant. Failure of the planning board to act
8 within the period prescribed shall constitute minor subdivision
9 approval and a certificate of the administrative officer as to the
10 failure of the planning board to act shall be issued on request of the
11 applicant; and it shall be sufficient in lieu of the written
12 endorsement or other evidence of approval, herein required, and
13 shall be so accepted by the county recording officer for purposes of
14 filing subdivision plats.

15 c. Whenever review or approval of the application by the
16 county planning board is required by section 5 of P.L.1968,
17 c.285 (C.40:27-6.3), the municipal planning board shall condition
18 any approval that it grants upon timely receipt of a favorable report
19 on the application by the county planning board or approval by the
20 county planning board by its failure to report thereon within the
21 required time period.

22 d. Except as provided in subsection f. of this section, approval
23 of a minor subdivision shall expire 190 days from the date on which
24 the resolution of municipal approval is adopted unless within such
25 period a plat in conformity with such approval and the provisions of
26 the **["Map Filing Law," P.L.1960, c.141 (C.46:23-9.9 et seq.), or]**
27 applicable sections of N.J.S.46:26A-1 et seq. and N.J.S.46:26B-1 et
28 seq., and a deed clearly describing the approved minor subdivision
29 is filed by the developer with the county recording officer, the
30 municipal engineer and the municipal tax assessor. Any such plat
31 or deed accepted for such filing shall have been signed by the
32 chairman and secretary of the planning board. In reviewing the
33 application for development for a proposed minor subdivision the
34 planning board may be permitted by ordinance to accept a plat not
35 in conformity with the **["Map Filing Law," P.L.1960,**
36 **c.141 (C.46:23-9.9 et seq.);** provided that if the developer chooses
37 to file the minor subdivision as provided herein by plat rather than
38 deed such plat shall conform with the provisions of said act**]**
39 applicable sections of N.J.S.46:26A-1 et seq. and N.J.S.46:2B-1 et
40 seq.

41 e. The zoning requirements and general terms and conditions,
42 whether conditional or otherwise, upon which minor subdivision
43 approval was granted, shall not be changed for a period of two years
44 after the date on which the resolution of minor subdivision approval
45 is adopted; provided that the approved minor subdivision shall have
46 been duly recorded as provided in this section.

47 f. The planning board may extend the 190-day period for filing
48 a minor subdivision plat or deed pursuant to subsection d. of this

1 section if the developer proves to the reasonable satisfaction of the
2 planning board (1) that the developer was barred or prevented,
3 directly or indirectly, from filing because of delays in obtaining
4 legally required approvals from other governmental or quasi-
5 governmental entities and (2) that the developer applied promptly
6 for and diligently pursued the required approvals. The length of the
7 extension shall be equal to the period of delay caused by the wait
8 for the required approvals, as determined by the planning board.
9 The developer may apply for the extension either before or after
10 what would otherwise be the expiration date.

11 g. The planning board shall grant an extension of minor
12 subdivision approval for a period determined by the board but not
13 exceeding one year from what would otherwise be the expiration
14 date, if the developer proves to the reasonable satisfaction of the
15 board that the developer was barred or prevented, directly or
16 indirectly, from proceeding with the development because of delays
17 in obtaining legally required approvals from other governmental
18 entities and that the developer applied promptly for and diligently
19 pursued the required approvals. A developer shall apply for the
20 extension before (1) what would otherwise be the expiration date of
21 minor subdivision approval or (2) the 91st day after the developer
22 receives the last legally required approval from other governmental
23 entities, whichever occurs later.

24 (cf: P.L.1991, c.256, s.9)

25

26 4. Section 38 of P.L.1975, c.291 (C.40:55D-50) is amended to
27 read as follows:

28 38. Final approval of site plans and major subdivisions.

29 a. The planning board shall grant final approval if the detailed
30 drawings, specifications and estimates of the application for final
31 approval conform to the standards established by ordinance for final
32 approval, the conditions of preliminary approval and, in the case of
33 a major subdivision, the standards prescribed by applicable sections
34 of N.J.S.46:26A-1 et seq. and N.J.S.46:26B-1 et seq.; provided that
35 in the case of a planned development, the planning board may
36 permit minimal deviations from the conditions of preliminary
37 approval necessitated by change of conditions beyond the control of
38 the developer since the date of preliminary approval without the
39 developer being required to submit another application for
40 development for preliminary approval.

41 b. Final approval shall be granted or denied within 45 days
42 after submission of a complete application to the administrative
43 officer, or within such further time as may be consented to by the
44 applicant. Failure of the planning board to act within the period
45 prescribed shall constitute final approval and a certificate of the
46 administrative officer as to the failure of the planning board to act
47 shall be issued on request of the applicant, and it shall be sufficient
48 in lieu of the written endorsement or other evidence of approval,

1 herein required, and shall be so accepted by the county recording
2 officer for purposes of filing subdivision plats.

3 Whenever review or approval of the application by the county
4 planning board is required by section 5 of P.L.1968, c.285
5 (C.40:27-6.3), in the case of a subdivision, or section 8 of P.L.1968,
6 c.285 (C.40:27-6.6), in the case of a site plan, the municipal
7 planning board shall condition any approval that it grants upon
8 timely receipt of a favorable report on the application by the county
9 planning board or approval by the county planning board by its
10 failure to report thereon within the required time period.

11 (cf: P.L.2013, c.106, s.12)

12

13 5. Section 41 of P.L.1975, c.291 (C.40:55D-53) is amended to
14 read as follows:

15 41. Guarantees required; surety; release. a. Before filing of final
16 subdivision plats or recording of minor subdivision deeds or as a
17 condition of final site plan approval or as a condition to the
18 issuance of a zoning permit pursuant to subsection d. of section 52
19 of P.L.1975, c.291 (C.40:55D-65), the municipality may require and
20 shall accept in accordance with the standards adopted by ordinance
21 and regulations adopted pursuant to section 1 of P.L.1999, c.68
22 (C.40:55D-53a) for the purpose of assuring the installation and
23 maintenance of certain on-tract improvements, the furnishing of a
24 performance guarantee, and provision for a maintenance guarantee
25 in accordance with paragraphs (1) and (2) of this subsection. If a
26 municipality has adopted an ordinance requiring a successor
27 developer to furnish a replacement performance guarantee, as a
28 condition to the approval of a permit update under the State
29 Uniform Construction Code, for the purpose of updating the name
30 and address of the owner of property on a construction permit, the
31 governing body may require and shall accept in accordance with the
32 standards adopted by ordinance and regulations adopted pursuant to
33 section 1 of P.L.1999, c.68 (C.40:55D-53a) for the purpose of
34 assuring the installation and maintenance of certain on-tract
35 improvements, the furnishing of a performance guarantee, and
36 provision for a maintenance guarantee, in accordance with
37 paragraphs (1) and (2) of this subsection.

38 (1) (a) If required by ordinance, the developer shall furnish a
39 performance guarantee in favor of the municipality in an amount
40 not to exceed 120% of the cost of installation of only those
41 improvements required by an approval or developer's agreement,
42 ordinance, or regulation to be dedicated to a public entity, and that
43 have not yet been installed, which cost shall be determined by the
44 municipal engineer and the municipal land surveyor, according to
45 the method of calculation set forth in section 15 of P.L.1991, c.256
46 (C.40:55D-53.4), for the following improvements as shown on the
47 approved plans or plat: for the municipal engineer these costs shall
48 include streets, pavement, gutters, curbs, sidewalks, street lighting,

1 street trees, [surveyor's monuments, as shown on the final map and
2 required by "the map filing law," P.L.1960, c.141 (C.46:23-9.9 et
3 seq.; repealed by section 2 of P.L.2011, c.217) or N.J.S.46:26B-1
4 through N.J.S.46:26B-8,] water mains, sanitary sewers, community
5 septic systems, drainage structures, public improvements of open
6 space, and any grading necessitated by the preceding
7 improvements; and for the municipal land surveyor these costs shall
8 include the surveyor's monuments or boundary markers, as shown
9 on the final map and required by N.J.S.46:26B-1 et seq., and all
10 other matters pertaining to land surveying and the practice of land
11 surveying.

12 The municipal engineer shall prepare an itemized cost estimate
13 of the improvements covered by the performance guarantee, which
14 itemized cost estimate shall be appended to each performance
15 guarantee posted by the obligor. The municipal land surveyor shall
16 prepare an itemized cost estimate for the installation of the
17 surveyor's monuments and all other matters pertaining to surveying
18 and the practice of surveying in connection with the installation of
19 these monuments, which itemized cost estimate shall be appended
20 to each performance guarantee posted by the obligor.

21 (b) A municipality may also require a performance guarantee to
22 include, within an approved phase or section of a development
23 privately-owned perimeter buffer landscaping, as required by local
24 ordinance or imposed as a condition of approval.

25 At the developer's option, a separate performance guarantee may
26 be posted for the privately-owned perimeter buffer landscaping.

27 (c) In the event that the developer shall seek a temporary
28 certificate of occupancy for a development, unit, lot, building, or
29 phase of development, as a condition of the issuance thereof, the
30 developer shall, if required by an ordinance adopted by the
31 municipality, furnish a separate guarantee, referred to herein as a
32 "temporary certificate of occupancy guarantee," in favor of the
33 municipality in an amount equal to 120% of the cost of installation
34 of only those improvements or items which remain to be completed
35 or installed under the terms of the temporary certificate of
36 occupancy and which are required to be installed or completed as a
37 condition precedent to the issuance of the permanent certificate of
38 occupancy for the development, unit, lot, building or phase of
39 development and which are not covered by an existing performance
40 guarantee. Upon posting of a "temporary certificate of occupancy
41 guarantee," all sums remaining under a performance guarantee,
42 required pursuant to subparagraph (a) of this paragraph, which
43 relate to the development, unit, lot, building, or phase of
44 development for which the temporary certificate of occupancy is
45 sought, shall be released. The scope and amount of the "temporary
46 certificate of occupancy guarantee" shall be determined by the
47 zoning officer, municipal engineer, municipal land surveyor, or
48 other municipal official designated by ordinance. At no time may a

1 municipality hold more than one guarantee or bond of any type with
2 respect to the same line item. The "temporary certificate of
3 occupancy guarantee" shall be released by the zoning officer,
4 municipal engineer, municipal land surveyor, or other municipal
5 official designated by ordinance upon the issuance of a permanent
6 certificate of occupancy with regard to the development, unit, lot,
7 building, or phase as to which the temporary certificate of
8 occupancy relates.

9 (d) A developer shall, if required by an ordinance adopted by
10 the municipality, furnish to the municipality a "safety and
11 stabilization guarantee," in favor of the municipality. At the
12 developer's option, a "safety and stabilization guarantee" may be
13 furnished either as a separate guarantee or as a line item of the
14 performance guarantee. A "safety and stabilization guarantee" shall
15 be available to the municipality solely for the purpose of returning
16 property that has been disturbed to a safe and stable condition or
17 otherwise implementing measures to protect the public from access
18 to an unsafe or unstable condition, only in the circumstance that:

19 (i) site disturbance has commenced and, thereafter, all work on
20 the development has ceased for a period of at least 60 consecutive
21 days following such commencement for reasons other than force
22 majeure, and

23 (ii) work has not recommenced within 30 days following the
24 provision of written notice by the municipality to the developer of
25 the municipality's intent to claim payment under the guarantee. A
26 municipality shall not provide notice of its intent to claim payment
27 under a "safety and stabilization guarantee" until a period of at least
28 60 days has elapsed during which all work on the development has
29 ceased for reasons other than force majeure. A municipality shall
30 provide written notice to a developer by certified mail or other form
31 of delivery providing evidence of receipt.

32 The amount of a "safety and stabilization guarantee" for a
33 development with bonded improvements in an amount not
34 exceeding \$100,000 shall be \$5,000.

35 The amount of a "safety and stabilization guarantee" for a
36 development with bonded improvements exceeding \$100,000 shall
37 be calculated as a percentage of the bonded improvement costs of
38 the development or phase of development as follows:

39 \$5,000 for the first \$100,000 of bonded improvement costs, plus
40 two and a half percent of bonded improvement costs in excess of
41 \$100,000 up to \$1,000,000, plus
42 one percent of bonded improvement costs in excess of
43 \$1,000,000.

44 A municipality shall release a separate "safety and stabilization
45 guarantee" to a developer upon the developer's furnishing of a
46 performance guarantee which includes a line item for safety and
47 stabilization in the amount required under this paragraph.

1 A municipality shall release a "safety and stabilization
2 guarantee" upon the municipal engineer's and the municipal land
3 surveyor's determination that the development of the project site
4 has reached a point that the improvements installed are adequate to
5 avoid any potential threat to public safety.

6 (2) (a) If required by ordinance, the developer shall post with the
7 municipality, prior to the release of a performance guarantee
8 required pursuant to subparagraph (a), subparagraph (b), or both
9 subparagraph (a) and subparagraph (b) of paragraph (1) of this
10 subsection, a maintenance guarantee in an amount not to exceed
11 15% of the cost of the installation of the improvements which are
12 being released.

13 (b) If required, the developer shall post with the municipality,
14 upon the inspection and issuance of final approval of the following
15 private site improvements by the municipal engineer and the
16 municipal land surveyor, a maintenance guarantee in an amount not
17 to exceed 15% of the cost of the installation of the following private
18 site improvements: stormwater management basins, in-flow and
19 water quality structures within the basins, and the out-flow pipes
20 and structures of the stormwater management system, if any, which
21 cost shall be determined according to the method of calculation set
22 forth in section 15 of P.L.1991, c.256 (C.40:55D-53.4).

23 (c) The term of the maintenance guarantee shall be for a period
24 not to exceed two years and shall automatically expire at the end of
25 the established term.

26 (3) In the event that other governmental agencies or public
27 utilities automatically will own the utilities to be installed or the
28 improvements are covered by a performance or maintenance
29 guarantee to another governmental agency, no performance or
30 maintenance guarantee, as the case may be, shall be required by the
31 municipality for such utilities or improvements.

32 b. The time allowed for installation of the bonded
33 improvements for which the performance guarantee has been
34 provided may be extended by the governing body by resolution. As
35 a condition or as part of any such extension, the amount of any
36 performance guarantee shall be increased or reduced, as the case
37 may be, to an amount not to exceed 120% of the cost of the
38 installation, which cost shall be determined by the municipal
39 engineer and the municipal land surveyor according to the method
40 of calculation set forth in section 15 of P.L.1991, c.256 (C.40:55D-
41 53.4) as of the time of the passage of the resolution.

42 c. If the required bonded improvements are not completed or
43 corrected in accordance with the performance guarantee, the obligor
44 and surety, if any, shall be liable thereon to the municipality for the
45 reasonable cost of the improvements not completed or corrected and
46 the municipality may either prior to or after the receipt of the
47 proceeds thereof complete such improvements. Such completion or
48 correction of improvements shall be subject to the public bidding

1 requirements of the "Local Public Contracts Law," P.L.1971, c.198
2 (C.40A:11-1 et seq.).

3 d. (1) Upon substantial completion of all required street
4 improvements (except for the top course) and appurtenant utility
5 improvements, and the connection of same to the public system, the
6 obligor may request of the governing body in writing, by certified
7 mail addressed in care of the municipal clerk, that the municipal
8 engineer and the municipal land surveyor prepare, in accordance
9 with the itemized cost estimate prepared by the municipal engineer
10 and the municipal land surveyor and appended to the performance
11 guarantee pursuant to subsection a. of this section, a list of all
12 uncompleted or unsatisfactory completed bonded improvements. If
13 such a request is made, the obligor shall send a copy of the request
14 to the municipal engineer and the municipal land surveyor. The
15 request shall indicate which bonded improvements have been
16 completed and which bonded improvements remain uncompleted in
17 the judgment of the obligor. Thereupon the municipal engineer and
18 the municipal land surveyor shall inspect all bonded improvements
19 covered by obligor's request and shall file a detailed list and report,
20 in writing, with the governing body, and shall simultaneously send
21 a copy thereof to the obligor not later than 45 days after receipt of
22 the obligor's request.

23 (2) The list prepared by the municipal engineer and the
24 municipal land surveyor shall state, in detail, with respect to each
25 bonded improvement determined to be incomplete or unsatisfactory,
26 the nature and extent of the incompleteness of each incomplete
27 improvement or the nature and extent of, and remedy for, the
28 unsatisfactory state of each completed bonded improvement
29 determined to be unsatisfactory. The report prepared by the
30 municipal engineer and the municipal land surveyor shall identify
31 each bonded improvement determined to be complete and
32 satisfactory together with a recommendation as to the amount of
33 reduction to be made in the performance guarantee relating to the
34 completed and satisfactory bonded improvement, in accordance
35 with the itemized cost estimate prepared by the municipal engineer
36 and the municipal land surveyor and appended to the performance
37 guarantee pursuant to subsection a. of this section.

38 e. (1) The governing body, by resolution, shall either approve the
39 bonded improvements determined to be complete and satisfactory
40 by the municipal engineer and the municipal land surveyor, or reject
41 any or all of these bonded improvements upon the establishment in
42 the resolution of cause for rejection, and shall approve and
43 authorize the amount of reduction to be made in the performance
44 guarantee relating to the improvements accepted, in accordance
45 with the itemized cost estimate prepared by the municipal engineer
46 and the municipal land surveyor and appended to the performance
47 guarantee pursuant to subsection a. of this section. This resolution
48 shall be adopted not later than 45 days after receipt of the list and

1 report prepared by the municipal engineer and the municipal land
2 surveyor. Upon adoption of the resolution by the governing body,
3 the obligor shall be released from all liability pursuant to its
4 performance guarantee, with respect to those approved bonded
5 improvements, except for that portion adequately sufficient to
6 secure completion or correction of the improvements not yet
7 approved; provided that 30% of the amount of the total performance
8 guarantee and "safety and stabilization guarantee" posted may be
9 retained to ensure completion and acceptability of all
10 improvements. The "safety and stabilization guarantee" shall be
11 reduced by the same percentage as the performance guarantee is
12 being reduced at the time of each performance guarantee reduction.

13 For the purpose of releasing the obligor from liability pursuant to
14 its performance guarantee, the amount of the performance guarantee
15 attributable to each approved bonded improvement shall be reduced
16 by the total amount for each such improvement, in accordance with
17 the itemized cost estimate prepared by the municipal engineer and
18 the municipal land surveyor and appended to the performance
19 guarantee pursuant to subsection a. of this section, including any
20 contingency factor applied to the cost of installation. If the sum of
21 the approved bonded improvements would exceed 70 percent of the
22 total amount of the performance guarantee, then the municipality
23 may retain 30 percent of the amount of the total performance
24 guarantee and "safety and stabilization guarantee" to ensure
25 completion and acceptability of bonded improvements, as provided
26 above, except that any amount of the performance guarantee
27 attributable to bonded improvements for which a "temporary
28 certificate of occupancy guarantee" has been posted shall be
29 released from the performance guarantee even if such release would
30 reduce the amount held by the municipality below 30 percent.

31 (2) If the municipal engineer and the municipal land surveyor
32 fails to send or provide the list and report as requested by the
33 obligor pursuant to subsection d. of this section within 45 days from
34 receipt of the request, the obligor may apply to the court in a
35 summary manner for an order compelling the municipal engineer
36 and the municipal land surveyor to provide the list and report within
37 a stated time and the cost of applying to the court, including
38 reasonable attorney's fees, may be awarded to the prevailing party.

39 If the governing body fails to approve or reject the bonded
40 improvements determined by the municipal engineer and the
41 municipal land surveyor to be complete and satisfactory or reduce
42 the performance guarantee for the complete and satisfactory
43 improvements within 45 days from the receipt of the municipal
44 engineer's and the municipal land surveyor's list and report, the
45 obligor may apply to the court in a summary manner for an order
46 compelling, within a stated time, approval of the complete and
47 satisfactory improvements and approval of a reduction in the
48 performance guarantee for the approvable complete and satisfactory

1 improvements in accordance with the itemized cost estimate
2 prepared by the municipal engineer and the municipal land surveyor
3 and appended to the performance guarantee pursuant to subsection
4 a. of this section; and the cost of applying to the court, including
5 reasonable attorney's fees, may be awarded to the prevailing party.

6 (3) In the event that the obligor has made a cash deposit with the
7 municipality or approving authority as part of the performance
8 guarantee, then any partial reduction granted in the performance
9 guarantee pursuant to this subsection shall be applied to the cash
10 deposit in the same proportion as the original cash deposit bears to
11 the full amount of the performance guarantee, provided that if the
12 developer has furnished a "safety and stabilization guarantee," the
13 municipality may retain cash equal to the amount of the remaining
14 "safety and stabilization guarantee".

15 f. If any portion of the required bonded improvements is
16 rejected, the approving authority may require the obligor to
17 complete or correct such improvements and, upon completion or
18 correction, the same procedure of notification, as set forth in this
19 section shall be followed.

20 g. Nothing herein, however, shall be construed to limit the right
21 of the obligor to contest by legal proceedings any determination of
22 the governing body or the municipal engineer and the municipal
23 land surveyor.

24 h. (1) The obligor shall reimburse the municipality for
25 reasonable inspection fees paid to the municipal engineer and the
26 municipal land surveyor for the foregoing inspection of
27 improvements; which fees shall not exceed the sum of the amounts
28 set forth in subparagraphs (a) and (b) of this paragraph. The
29 municipality may require the developer to post the inspection fees
30 in escrow in an amount:

31 (a) not to exceed, except for extraordinary circumstances, the
32 greater of \$500 or 5% of the cost of bonded improvements that are
33 subject to a performance guarantee under subparagraph (a),
34 subparagraph (b), or both subparagraph (a) and subparagraph (b) of
35 paragraph (1) of subsection a. of this section; and

36 (b) not to exceed 5% of the cost of private site improvements
37 that are not subject to a performance guarantee under subparagraph
38 (a) of paragraph (1) of subsection a. of this section, which cost shall
39 be determined pursuant to section 15 of P.L.1991, c.256 (C.40:55D-
40 53.4).

41 (2) For those developments for which the inspection fees total
42 less than \$10,000, fees may, at the option of the developer, be paid
43 in two installments. The initial amount deposited in escrow by a
44 developer shall be 50% of the inspection fees. When the balance on
45 deposit drops to 10% of the inspection fees because the amount
46 deposited by the developer has been reduced by the amount paid to
47 the municipal engineer and the municipal land surveyor for

1 inspections, the developer shall deposit the remaining 50% of the
2 inspection fees.

3 (3) For those developments for which the inspection fees total
4 \$10,000 or greater, fees may, at the option of the developer, be paid
5 in four installments. The initial amount deposited in escrow by a
6 developer shall be 25% of the inspection fees. When the balance on
7 deposit drops to 10% of the inspection fees because the amount
8 deposited by the developer has been reduced by the amount paid to
9 the municipal engineer and the municipal land surveyor for
10 inspection, the developer shall make additional deposits of 25% of
11 the inspection fees.

12 (4) If the municipality determines that the amount in escrow for
13 the payment of inspection fees, as calculated pursuant to
14 subparagraphs (a) and (b) of paragraph (1) of this subsection, is
15 insufficient to cover the cost of additional required inspections, the
16 municipality may require the developer to deposit additional funds
17 in escrow provided that the municipality delivers to the developer a
18 written inspection escrow deposit request, signed by the municipal
19 engineer and the municipal land surveyor, which: informs the
20 developer of the need for additional inspections, details the items or
21 undertakings that require inspection, estimates the time required for
22 those inspections, and estimates the cost of performing those
23 inspections.

24 i. In the event that final approval is by stages or sections of
25 development pursuant to subsection a. of section 29 of P.L.1975,
26 c.291 (C.40:55D-38), the provisions of this section shall be applied
27 by stage or section.

28 j. To the extent that any of the improvements have been
29 dedicated to the municipality on the subdivision plat or site plan,
30 the municipal governing body shall be deemed, upon the release of
31 any performance guarantee required pursuant to subsection a. of
32 this section, to accept dedication for public use of streets or roads
33 and any other improvements made thereon according to site plans
34 and subdivision plats approved by the approving authority, provided
35 that such improvements have been inspected and have received
36 final approval by the municipal engineer and the municipal land
37 surveyor.

38 (cf: P.L.2017, c.312, s.1).

39

40 6. Section 3 of P.L.1995, c.54 (C.40:55D-53.2a) is amended to
41 read as follows:

42 3. a. An applicant shall notify in writing the governing body
43 with copies to the chief financial officer, the approving authority
44 and the professional whenever the applicant disputes the charges
45 made by a professional for service rendered to the municipality in
46 reviewing applications for development, review and preparation of
47 documents, inspection of improvements, or other charges made
48 pursuant to the provisions of P.L.1975, c.291 (C.40:55D-1 et seq.).

1 The governing body, or its designee, shall within a reasonable time
2 period attempt to remediate any disputed charges. If the matter is
3 not resolved to the satisfaction of the applicant, the applicant may
4 appeal to the county construction board of appeals established under
5 section 9 of P.L.1975, c.217 (C.52:27D-127) any charge to an
6 escrow account or a deposit by any municipal professional or
7 consultant, or the cost of the installation of improvements estimated
8 by the municipal engineer and the municipal land surveyor, in their
9 respective professional fields, pursuant to section 15 of P.L.1991,
10 c.256 (C.40:55D-53.4). An applicant or his authorized agent shall
11 submit the appeal in writing to the county construction board of
12 appeals. The applicant or his authorized agent shall simultaneously
13 send a copy of the appeal to the municipality, approving authority,
14 and any professional whose charge is the subject of the appeal. An
15 applicant shall file an appeal within 45 days from receipt of the
16 informational copy of the professional's voucher required by
17 subsection c. of section 13 of P.L.1991, c.256 (C.40:55D-53.2),
18 except that if the professional has not supplied the applicant with an
19 informational copy of the voucher, then the applicant shall file his
20 appeal within 60 days from receipt of the municipal statement of
21 activity against the deposit or escrow account required by
22 subsection c. of section 13 of P.L.1991, c.256 (C.40:55D-53.2). An
23 applicant may file an appeal for an ongoing series of charges by a
24 professional during a period not exceeding six months to
25 demonstrate that they represent a pattern of excessive or inaccurate
26 charges. An applicant making use of this provision need not appeal
27 each charge individually.

28 b. The county construction board of appeals shall hear the
29 appeal, render a decision thereon, and file its decision with a
30 statement of the reasons therefor with the municipality or approving
31 authority not later than 10 business days following the submission
32 of the appeal, unless such period of time has been extended with the
33 consent of the applicant. The decision may approve, disapprove, or
34 modify the professional charges appealed from. A copy of the
35 decision shall be forwarded by certified or registered mail to the
36 party making the appeal, the municipality, the approving authority,
37 and the professional involved in the appeal. Failure by the board to
38 hear an appeal and render and file a decision thereon within the
39 time limits prescribed in this subsection shall be deemed a denial of
40 the appeal for purposes of a complaint, application, or appeal to a
41 court of competent jurisdiction.

42 c. The county construction board of appeals shall provide rules
43 for its procedure in accordance with this section. The board shall
44 have the power to administer oaths and issue subpoenas to compel
45 the attendance of witnesses and the production of relevant evidence,
46 and the provisions of the "County and Municipal Investigations
47 Law," P.L.1953, c.38 (C.2A:67A-1 et seq.) shall apply.

1 d. During the pendency of any appeal, the municipality or
2 approving authority shall continue to process, hear, and decide the
3 application for development, and to inspect the development in the
4 normal course, and shall not withhold, delay, or deny reviews,
5 inspections, signing of subdivision plats or site plans, the reduction
6 or the release of performance or maintenance guarantees, the
7 issuance of construction permits or certificates of occupancy, or any
8 other approval or permit because an appeal has been filed or is
9 pending under this section. The chief financial officer of the
10 municipality may pay charges out of the appropriate escrow account
11 or deposit for which an appeal has been filed. If a charge is
12 disallowed after payment, the chief financial officer of the
13 municipality shall reimburse the deposit or escrow account in the
14 amount of any such disallowed charge or refund the amount to the
15 applicant. If a charge is disallowed after payment to a professional
16 or consultant who is not an employee of the municipality, the
17 professional or consultant shall reimburse the municipality in the
18 amount of any such disallowed charge.

19 e. The Commissioner of Community Affairs shall promulgate
20 rules and regulations pursuant to the "Administrative Procedure
21 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the
22 purposes of this section. Within two years of the effective date of
23 P.L.1995, c.54 (C.40:55D-53.2a et al.), the commissioner shall
24 prepare and submit a report to the Governor, the President of the
25 Senate, and the Speaker of the General Assembly. The report shall
26 describe the appeals process established by section 3 of P.L.1995,
27 c.54 (C.40:55D-53.2a) and shall make recommendations for
28 legislative or administrative action necessary to provide a fair and
29 efficient appeals process.

30 (cf: P.L.1995, c.54, s.3)

31

32 7. Section 15 of P.L.1991, c.256 (C.40:55D-53.4) is amended
33 to read as follows:

34 15. The cost of the installation of improvements for the purposes
35 of section 41 of P.L.1975, c.291 (C.40:55D-53) shall be estimated
36 by the municipal engineer and the municipal land surveyor, in their
37 respective professional fields, based on documented construction
38 costs for public improvements prevailing in the general area of the
39 municipality. The developer may appeal the municipal engineer's
40 and the municipal land surveyor's estimate to the county
41 construction board of appeals established under section 9 of
42 P.L.1975, c.217 (C.52:27D-127).

43 (cf: P.L.1995, c.54, s.2)

44

45 8. Section 1 of P.L.1998, c.23 (C.46:23-9.17) is amended to
46 read as follows:

47 1. a. The provisions of P.L.1997, c.211 shall not apply to the
48 filing of any right of way parcel map in connection with projects for

1 which construction bids are advertised on or prior to July 1, 2001.
2 For the purposes of this section, the advertising of construction bids
3 shall mean the first publication for the solicitation of bids for work
4 and material for a highway, road or street project. The provisions
5 of P.L.1997, c.211 shall apply to the filing of right of way parcel
6 maps after July 1, 2001.

7 b. All right of way parcel maps, and amendments thereto, of
8 the State, or any county or municipality showing acquisitions and
9 associated easements for projects for which construction bids are
10 advertised on or prior to July 1, 2001 may be filed with the county
11 recording officer at any time without meeting the requirements of
12 P.L.1997, c.211, so long as certification as to the date of the
13 advertisement notice is produced when requested by the county
14 recording officer.

15 c. The plot plan which is required to be included as part of a
16 declaration of taking under paragraph (c) of section 17 of P.L.1971,
17 c.361 (C.20:3-17) need only meet the accuracy standards of a right
18 of way parcel map.

19 d. **【The scale of the maps and the dimensions depicted upon**
20 **right of way parcel maps may be in metric or English at the**
21 **discretion of the preparer】** (Deleted by amendment, P.L. _____,
22 c. (C. _____) (pending before the Legislature as this bill).

23 e. **【In addition to sizes set forth in P.L. 1997, c.211, a map size**
24 **of 22 inches by 36 inches shall be acceptable for right of way parcel**
25 **maps】** (Deleted by amendment, P.L. _____, c. (C. _____) (pending before
26 the Legislature as this bill).

27 (cf: P.L.1998, c.23, s.1)

28

29 9. N.J.S.46:26A-5 is amended to read as follows:

30 46:26A-5. Form of documents and maps; cover sheet or
31 electronic synopsis.

32 a. To be accepted for recording, a document or its image shall
33 be either:

34 (1) legibly printed on paper no larger than 8 1/2 inches by 14
35 inches; or

36 (2) in compliance with regulations on the form of documents
37 promulgated by the Division of Archives and Records Management
38 in the Department of State.

39 b. A document or its image accepted for recording may be
40 accompanied by a cover sheet or an electronic synopsis separate
41 from the document or integrated with the document. The Division
42 of Archives and Records Management in the Department of State
43 shall establish forms for cover sheets and formats for electronic
44 synopses. The form for a separate cover sheet shall be available at
45 every recording office and on a web site maintained by the Division
46 of Archives and Records Management. The cover sheet or
47 electronic synopsis shall include:

48 (1) the nature of the document;

- 1 (2) the date of the document;
- 2 (3) the names of the parties to the document and any other
3 names by which the document is to be indexed;
- 4 (4) if the document is a deed conveying title to real property:
- 5 (i) the lot and block number or other real property tax
6 designation of the real property conveyed or a statement that the
7 information is not available;
- 8 (ii) the consideration for the conveyance;
- 9 (iii) the mailing address of the grantee; and
- 10 (5) if the document is an assignment, release or satisfaction of a
11 mortgage or an agreement respecting a mortgage, it states the book
12 and page number or the document identifying number of the
13 mortgage to which it relates if the mortgage has been given such a
14 number.
- 15 c. If the person submitting the document for recording does not
16 include a cover sheet or electronic synopsis, the recording office
17 shall charge an additional fee of \$20 for the additional cost of
18 indexing.
- 19 d. To be accepted for recording, a map shall be clearly and
20 legibly drawn in black ink on translucent tracing cloth, translucent
21 mylars at least 4 mils thick or its equivalent, of good quality, with
22 signatures in ink, or as an equivalent reproduction on photographic
23 fixed line mylar 4 mils thick with signatures in black ink or its
24 equivalent and accompanied by a cloth print or photographic fixed
25 line mylar 4 mils thick duplicate; and one of six standard sizes: 8
26 1/2" x **13**" 14", 30" x 42", 24" x 36", 11" x 17", 18" x 24" or 15"
27 x 21" as measured from cutting edges. If one sheet is not of
28 sufficient size to contain the entire territory, the map may be
29 divided into sections to be shown on separate sheets of equal sizes,
30 with references on each sheet to the adjoining sheets. In addition to
31 these sizes, a map size of 22" x 36" shall also be acceptable for
32 right-of-way parcel maps, general property parcel maps and all
33 other government mapping presented for recording.
- 34 e. The regulations of the Division of Archives and Records
35 Management specifying the form of documents shall comply with
36 rules, standards and procedures authorized by the State Records
37 Committee pursuant to its authority under section 6 of P.L.1994,
38 c.140 (C.47:1-12) and the "Destruction of Public Records Law
39 (1953)," P.L.1953, c.410 (C.47:3-15 et seq.).
- 40 f. A county recording office shall not be required to accept for
41 recording a cover sheet or electronic synopsis pursuant to
42 subsections b. and c. of this section until five years after the
43 effective date of P.L.2011, c.217 (N.J.S.46:26A-1 et al.). This
44 provision shall not operate to prevent or preclude any county
45 recording officer from adopting the use of the document summary
46 form or electronic synopsis prior to that date.
47 (cf: N.J.S.46:26A-5)

1 10. N.J.S.46:26B-1 is amended to read as follows:

2 46:26B-1. Definitions.

3 As used in P.L.2011, c.217 (N.J.S.46:26A-1 et al.):

4 "Condominium plan" means a survey of the condominium
5 property in sufficient detail to identify the location and dimensions
6 of units and common elements, which shall be filed in accordance
7 with the requirements of [section 3 of P.L.1960, c.141 (C.46:23-
8 9.11)] N.J.S.46:26B-2. A condominium plan shall bear a
9 certification by a land surveyor, as to the land survey information
10 and proposed improvements to the site shown on such plan as
11 provided by law, and by a professional engineer or architect , as to
12 the design details shown on such plan, who are authorized to
13 practice in this State that the plan is a correct representation of the
14 improvements described.

15 "Entire tract" means all of the property that is being subdivided
16 including lands remaining after subdivision.

17 "General property parcel map" means a right of way parcel map
18 showing a group of parcel and easement acquisitions for part of a
19 highway, road or street project, or any other government project
20 where parcel and easement acquisitions are required.

21 "Land Surveyor" means a person who is legally authorized to
22 practice land surveying in this State as provided by P.L.1938,
23 c.342 (C.45:8-27 et seq.).

24 "Map" includes a map, plat, condominium plan, right of way
25 parcel maps of the State, county or municipality, chart, or survey of
26 lands presented for approval to a proper authority or presented for
27 filing as provided by P.L.2011, c.217 (N.J.S.46:26A-1 et al.), but
28 does not include a map, plat or sketch required to be filed or
29 recorded under the provisions of P.L.1957, c.130 (C.48:3-17.2) [or
30 a subdivision plat for a subdivision that was granted final approval
31 by a municipal approving authority on or prior to July 1, 1999].

32 "Municipal Engineer" means the official licensed professional
33 engineer appointed by the proper authority of the municipality in
34 which the territory shown on a map is located.

35 "Municipal land surveyor" means the official licensed
36 professional land surveyor appointed by the proper authority of the
37 municipality in which the territory shown on a map is located.

38 "Professional Engineer" means a person who is legally
39 authorized to practice professional engineering in this State as
40 provided by P.L.1938, c.342 (C.45:8-27 et seq.).

41 "Proper authority" means the chief legislative body of a
42 municipality or other agencies to which the authority for approval
43 of maps has been designated by ordinance or statute.

44 "Right of way parcel map" means any general property parcel
45 map which shows highways or street acquisitions and any
46 associated easements for highway or street rights of way.

47 (cf: N.J.S.46:26B-1)

1 11. N.J.S.46:26B-2 is amended to read as follows:

2 46:26B-2. Requirements for approval or filing of a map.

3 a. A map shall not be approved by a proper authority unless it
4 meets the requirements of subsection d. of N.J.S.46:26A-5 and this
5 section specified for the kind of map involved. The following kinds
6 of maps shall meet the following requirements:

7 (1) Major subdivision plats shall meet all of the requirements of
8 this section.

9 (2) Right of way parcel maps shall meet the requirements of
10 **【subsections b.】** paragraphs (1), (2), (4), (5), (6), (7), (8), and (11)
11 and subparagraphs (a), (b), and (d) of paragraph (13) of subsection
12 b. of this section as they apply.

13 (3) Minor subdivision maps shall meet all of the requirements of
14 this section except for the outside tract line monuments requirement
15 of paragraph (8) of subsection b. **【(8)】** of this section.

16 (4) Condominium plans shall meet the requirements of
17 **【subsections b.】** paragraphs (1), (4), (5), (6), (7) **【and】** , (8), (10),
18 (11), and (12) and subparagraphs (a), (b), and (c) of paragraph (13)
19 of subsection b. of this section as they apply.

20 b. **【No】** With the exception of the provisions provided in
21 subsection d. of N.J.S.46:26A-5 and subsection d. of section 35 of
22 P.L.1975, c.291 (C.40:55D-47), no map requiring approval by law
23 or that is to be approved for filing with a county, shall be approved
24 by the proper authority unless it conforms to the following
25 requirements:

26 (1) A map shall show the scale, which shall be inches to feet and
27 be large enough to contain legibly written data on the dimensions,
28 bearings and all other details of the boundaries, and it shall also
29 show the graphic scale.

30 (2) A map shall show the dimensions, square footage of each lot
31 to the nearest square foot or nearest one hundredth of an acre.
32 Bearings and curve data shall include the radius, delta angle, length
33 of arc, chord distance and chord bearing sufficient to enable the
34 definite location of all lines and boundaries shown, including public
35 easements and areas dedicated for public use. Non-tangent curves
36 and non-radial lines shall be so labeled. Right of way parcel maps
37 shall show bearings, distances and curve data for the right of way
38 **【or】** and the right-of-way center line **【or** base line and ties to right
39 of way lines if from a base line】 , and if a base line is shown, ties
40 from that base line to the right-of-way lines.

41 (3) Where lots are shown thereon, those in each block shall be
42 numbered consecutively. Block and lot designations shall conform
43 with the municipal tax map if municipal regulations so require. In
44 counties which adopt the local or block system of indices pursuant
45 to sections 46:24-1 to 46:24-22 of the Revised Statutes, the map
46 shall show the block boundaries and designations established by the

1 board of commissioners of land records for the territory shown on
2 the map.

3 (4) The reference meridian used for bearings on the map shall be
4 shown graphically. The coordinate base, either assumed or based on
5 the New Jersey Plane Coordinate System, with reference to the
6 coordinate system date, shall be shown on the plat.

7 (5) All municipal boundary lines crossing or adjacent to the
8 territory shall be shown and designated.

9 (6) All natural and artificial watercourses, streams, shorelines
10 and water boundaries and encroachment lines shall be shown. On
11 right of way parcel maps all easements that affect the right of way,
12 including slope easements and drainage, shall be shown and
13 dimensioned.

14 (7) All permanent easements, including sight right easements
15 and utility easements, shall be shown and dimensioned.

16 (8) The map shall clearly show all monumentation required by
17 this chapter, including monuments found, monuments set, and
18 monuments to be set. An indication shall be made where
19 monumentation found has been reset. For purposes of this
20 subsection "found corners" shall be considered monuments. A
21 minimum of three corners distributed around the tract shall indicate
22 the coordinate values.

23 **【The】** For subdivision plats and condominium plans the
24 outbound corner markers shall be set pursuant to regulations
25 promulgated by the State Board of Professional Engineers and Land
26 Surveyors.

27 For all governmental mapping other than right of way parcel
28 maps and general property parcel maps, the outbound corner
29 markers shall be set pursuant to regulations promulgated by the
30 State Board of Professional Engineers and Land Surveyors subject
31 to the provisions of section 1 of P.L.2003, c.14 (C.45:8-36.3).

32 All types of other boundary markers shall be those contained in
33 the regulations promulgated by the State Board of Professional
34 Engineers and Land Surveyors and approved by the proper
35 authority.

36 (9) The map shall show as a chart on the plat any other technical
37 design controls required by local ordinances, including, but not
38 limited to, minimum street widths, minimum lot areas and minimum
39 yard dimensions.

40 (10) The map shall show the name of the subdivision, the name
41 of the **【last】** current property owners, the municipality and county.

42 (11) The map shall show the date of the survey and shall be in
43 accordance with the minimum survey detail requirements of the
44 State Board of Professional Engineers and Land Surveyors.

45 (12) A certificate of a land surveyor or surveyors, shall be
46 endorsed on the map as follows:

47 I certify that to the best of my knowledge and belief this map and
48 land survey dated meet the minimum

1 survey detail requirements of the State Board of Professional
2 Engineers and Land Surveyors and the map has been made under
3 my supervision, and complies with the **["map filing law"]**
4 applicable sections of N.J.S.46:26A-1 et seq. and N.J.S.46:26B-1 et
5 seq. and that the outbound corner markers as shown have been
6 found, or set as indicated hereon.

7 (Include the following, if applicable)

8 I further certify that the monuments as designated and shown have
9 been set.

.....
(Printed name of Licensed Professional Land Surveyor) Date
Licensed Professional Land Surveyor **[and No.]** , NJ License #

10

11 (Affix Seal over signature)

12

13 (13) If the land surveyor who prepares the map is different from
14 the land surveyor who prepared the outbound survey, the following
15 two certificates shall be added in lieu of the certificate above.

16 (a) I certify to the best of my knowledge, information and belief
17 that this land survey dated has been made under my
18 supervision and meets the minimum survey detail requirements of
19 the State Board of Professional Engineers and Land Surveyors and
20 that **[the]** any outbound corner markers as shown have been found,
21 or set as indicated hereon.

.....
(Printed name of Licensed Professional Land Surveyor) Date
Licensed Professional Land Surveyor **[and No.]** , NJ License #

22

23 (Affix seal over signature)

24

25 (b) I certify that this map has been made under my supervision
26 and complies with **["the "map filing law."]** applicable sections of
27 N.J.S.46:26A-1 et seq. and N.J.S.46:26B-1 et seq.

28

29 (Including the following if applicable)

30

31 I further certify that the monuments as designated and shown
32 hereon have been set.

.....
(Printed name of Licensed Professional Land Surveyor) Date
Licensed Professional Land Surveyor **[and No.]** , NJ License #

33

34 (Affix seal over signature)

1 (c) If monuments are to be set at a later date, the following
2 requirements and endorsement shall be shown on the map.

3 The monuments shown on this map shall be set within the time limit
4 provided in the "Municipal Land Use Law," P.L.1975,
5 c.291 (C.40:55D-1 et seq.) or local ordinance.

6 I certify that a bond of a sufficient amount has been given to the
7 municipality, guaranteeing the future setting of the monuments as
8 designated and shown on this map and so designated.

.....
(Printed name of Municipal Clerk) Date
Municipal Clerk

9

10 (d) If the map is a right of way parcel map or general property
11 parcel map the project surveyor need **only to** not certify that the
12 monuments have been set or will be set.

13 (14) (a) A certificate of the municipal **engineer** land surveyor
14 shall be endorsed on the map as follows:

15 I have carefully examined this map and to the best of my knowledge
16 and belief find it conforms with the provisions of **["the map filing**
17 **law,"]** applicable sections of N.J.S.46:26A-1 et seq. and
18 N.J.S.46:26B-1 et seq., resolution of approval and any applicable
19 municipal ordinances and requirements as they pertain to surveying
20 matters.

.....
(Printed name of Licensed Professional Land Surveyor) Date
Municipal **Engineer** Land Surveyor (Affix Seal over
signature)
Licensed Professional Land Surveyor, NJ License #

21

22 (b) When proposed improvements are shown, the municipal
23 engineer shall review all engineering aspects of the map and
24 endorse thereon a certificate in the format of the municipal land
25 surveyor.

26 (15) An affidavit setting forth the names and addresses of all the
27 record title owners of the lands subdivided by the map and written
28 consent to the approval of the map of all those owners shall be
29 submitted to the proper authority with the map.

30 (16) If the map shows highways, streets, lanes or alleys, a
31 certificate shall be endorsed on it by the municipal clerk that the
32 municipal body has approved the highways, streets, lanes or alleys,
33 except where such map is prepared and presented for filing by the
34 State of New Jersey or any of its agencies. The map shall show all
35 of the street names as approved by the municipality.

36 (cf: N.J.S.46:26B-2)

37

38 12. N.J.S.46:26B-3 is amended to read as follows:

1 46:26B-3. Monumentation.

2 a. A map shall not be approved by a proper authority unless it
3 meets the monumentation requirements of this section specified for
4 the kind of map involved. The following kinds of maps shall meet
5 the following requirements:

6 (1) Subdivision plats shall meet all of the requirements of this
7 section.

8 (2) Right of way parcel maps shall meet the requirements of
9 subsection b. (9) of this section.

10 b. Monuments are required on one side of the right of way only
11 and shall be of metal detectable durable material at least 30 inches
12 long. The top and bottom shall be a minimum of 4 inches square; if
13 concrete, however, it may be made of other durable metal detectable
14 material specifically designed to be permanent, as approved by the
15 State Board of Professional Engineers and Land Surveyors. All
16 monuments shall include the identification of the professional land
17 surveyor or firm. They shall be firmly set in the ground so as to be
18 visible at the following control points; provided that in lieu of
19 installation of the monuments, the municipality may accept bond
20 with sufficient surety in form and amount to be determined by the
21 governing body, conditioned upon the proper installation of the
22 monuments on the completion of the grading of the streets and
23 roads shown on the map.

24 (1) At each intersection of the outside boundary of the whole
25 tract, with the right-of-way line of any side of an existing street.

26 (2) At the intersection of the outside boundary of the whole tract
27 with the right-of-way line on one side of a street being established
28 by the map under consideration.

29 (3) At one corner formed by the intersection of the right-of-way
30 lines of any two streets at a T-type intersection.

31 (4) At any two corners formed by the right-of-way lines of any
32 two streets in an "X" or "Y" type intersection.

33 (5) If the right-of-way lines of two streets are connected by a
34 curve at an intersection, monuments shall be as stipulated in (3) and
35 (4) of this subsection at one of the following control points:

36 (a) The point of intersection of the prolongation of said lines,

37 (b) The point of curvature of the connecting curve,

38 (c) The point of tangency of the connecting curve,

39 (d) At the beginning and ending of all tangents on one side of
40 any street, or

41 (e) At the point of compound curvature or point of reversed
42 curvature where either curve has a radius equal to or greater than
43 100 feet. Complete curve data as indicated in subsection d. of this
44 section shall be shown on the map, or

45 (f) At intermediate points in the sidelines of a street between
46 two adjacent street intersections in cases where the street deflects
47 from a straight line or the line of sight between the adjacent
48 intersections is obscured by a summit or other obstructions which

1 are impractical to remove. This requirement may necessitate the
2 setting of additional monuments at points not mentioned above.
3 Bearings and distances between the monuments or coordinate
4 values shall be indicated.

5 (6) In cases where it is impossible to set a monument at any of
6 the above designated points, a nearby reference monument shall be
7 set and its relation to the designated point shall be clearly
8 designated on the map; **【or】** and the plate on the reference
9 monument shall be stamped with the word "offset" and its
10 **【relation】** relationship to the **【monument shown on the filed map】**
11 designated point.

12 (7) In areas where permanency of monuments may be better
13 insured by off-setting the monuments from the property line, the
14 municipal engineer may authorize such procedure; provided, that
15 proper instrument sights may be obtained and complete off-set data
16 is recorded on the map.

17 (8) A note shall be provided on each drawing that shall read as
18 follows: By the filing of a map in accordance with the provisions of
19 **【"the map filing law,"】** the applicable sections of N.J.S.46:26A-1 et
20 seq. and N.J.S.46:26B-1 et seq., reasonable survey access to the
21 monuments is granted, which shall not restrict in any way the use of
22 the property by the landowner.

23 (9) On right of way parcel maps and general property parcel
24 maps, the monuments shall be set at the points of curvature, points
25 of tangency, points of reverse curvature and points of compound
26 curvature or the control base line or center line, if used, and be
27 intervisible with a second monument.

28 (10) On minor subdivisions a monument shall be set at each
29 intersection of an outside boundary of the newly created lot or lots
30 with the right of way line of any side of an existing street.

31 (cf: N.J.S.46:26B-3)

32

33 13. N.J.S.46:26B-4 is amended to read as follows:

34 46:26B-4. Approval of maps.

35 a. The proper authority shall approve or disapprove a map or
36 determine that the map is exempt from approval, within 45 days
37 from its receipt of a completed application.

38 b. The approval of a map under this law by the proper authority
39 shall not be construed as acceptance of any street or highway
40 indicated on the map; nor shall approval obligate the State of New
41 Jersey or any county or municipality, to maintain or exercise
42 jurisdiction over those streets or highways.

43 (cf: N.J.S.46:26B-4)

44

45 14. N.J.S.46:26B-5 is amended to read as follows:

46 46:26B-5. Additional prerequisites to filing.

47 a. **【The】** With the exception of right-of-way parcel maps and
48 other governmental mapping, the county recording officer shall not

1 accept for filing any map[, with the exception of a right-of-way
2 parcel map] unless it has endorsed on it a certificate signed and
3 sealed with the municipal seal by the municipal clerk or secretary of
4 the planning board, as the case may be, stating:

5 [a.] (1) That the proper authority has approved the map or
6 stating its exemption from approval;

7 [b.] (2) That the map complies with the provisions of this law;
8 and

9 [c.] (3) The date by which the map is required to be filed by the
10 applicable law.

11 b. One of the following endorsements shall be used and shall
12 read as follows:

13 (1) When review and approval by the proper authority is
14 required:

15
16 This is to certify that the Planning Board of the _____ of _____ is the
17 proper authority and, having reviewed this map, finds it to be in
18 compliance with the applicable sections of N.J.S.46:26A-1 et seq.
19 and N.J.S.46:26B-1 et seq. and has approved this map for filing
20 with the county recording officer of (county) County on or before
21 the (date) day of (month), (year). After this date municipal
22 approval shall expire.

.....
(Printed name of the municipal clerk or secretary of the planning board) Date
Title, Municipal Clerk or Secretary of the Planning Board

23
24 (2) When it has been determined that approval by the proper
25 authority is not required:

26 This is to certify that the Planning Board of the _____ of _____ is the
27 proper authority and, having reviewed this map, finds it to be in
28 compliance with the applicable sections of N.J.S.46:26A-1 et seq.
29 and N.J.S.46:26B-1 et seq. and has determined that this map is
30 exempt from approval by this authority.

.....
(Printed name of the municipal clerk or secretary of the planning board) Date
Title, Municipal Clerk or Secretary of the Planning Board

31
32 Right-of-way parcel maps, general property parcel maps and all
33 other government survey maps, plats, charts or plans, prepared by a
34 licensed land surveyor shall not require approval by the proper
35 authority as a prerequisite to filing with the county recording
36 officer.

37 Minor subdivision maps may also be filed with the county
38 recording officer when, along with the deed perfecting the
39 subdivision, a signed and sealed copy of that approved minor

1 subdivision map is accompanied with a certified resolution from the
2 proper authority granting the subdivision approval.

3 (cf: N.J.S.46:26B-5)

4

5 15. (New section) Nothing in the provisions of N.J.S.46:26A-1
6 et seq. or N.J.S.46:26B-1 et seq. shall prevent an individual licensed
7 as a professional engineer and as a professional land surveyor from
8 being appointed by the proper authority to perform the tasks and
9 responsibilities of both the municipal engineer and the municipal
10 land surveyor.

11

12 16. (New section) For all mapping performed in accordance
13 with the provisions of N.J.S.46:26B-1 et seq., a land surveyor may
14 show the footprint of proposed improvements and the distance of
15 proposed improvements from the boundary lines of the property. A
16 note shall be included on the drawing indicating the source of the
17 information being shown. As used in this section, “footprint”
18 means the exterior surface or structural overhang of any proposed
19 improvement to the land where such exterior surface or structural
20 overhang comes or would come in contact with the surface of the
21 ground.

22

23 17. This act shall take effect immediately.

24

25

26

STATEMENT

27

28 This bill provides that only properly licensed New Jersey Land
29 Surveyors review all matters pertaining to land surveying and the
30 practice of land surveying in the submission of site plans and
31 subdivision maps to the proper authority. Presently, licensed
32 engineers are allowed to review all matters and make all
33 determinations in matters involving land surveying. While this may
34 have been acceptable in the past, changes in the statutory law
35 governing land surveyors and engineers, as well as differences in the
36 requirements for each profession in terms of education and experience,
37 have made the two professions distinct and separate. In light of this,
38 this bill amends the “Municipal Land Use Law,” the “map filing law,”
39 and various provisions of law relating to title recordation and mapping
40 contained in chapters 26A and 26B of Title 46 of the New Jersey
41 Statutes in order to reflect these changes.

42

43 Under the bill, the responsibility for review of all matters
44 pertaining to engineering will remain with the licensed engineer, but
45 responsibility for review of matters pertaining to land surveying will
46 be placed with the licensed land surveyor. For subdivision plots and
47 condominium plans the outbound corner markers shall be set pursuant
48 to regulations promulgated by the State Board of Professional
Engineers and Land Surveyors. The bill provides that all types of

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30

1 other boundary markers shall be in accordance with board regulations
2 and approved by the proper authority.

3 The bill requires all monuments to include the identification of the
4 professional surveyor or firm, rather than the identification of the
5 professional land surveyor and firm.